

**THE HONORABLE MARY JO HESTON**  
**CHAPTER 13**  
**HEARING DATE: October 22, 2019**  
**HEARING TIME: 1:00 P.M.**  
**LOCATION: Tacoma, Washington**  
**RESPONSE DATE: October 15, 2019**

**IN THE UNITED STATES BANKRUPTCY COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

In re:

Case No.: 19-42719-MJH

ORLAND WAYNE HARDIE III and  
STACY LEIGH HELMER-HARDIE,

# TRUSTEE'S OBJECTION TO CONFIRMATION WITH STRICT COMPLIANCE

## Debtors.

**COMES NOW**, Michael G. Malaier, Chapter 13 Standing Trustee, and objects to confirmation as follows:

## BACKGROUND

Debtors filed this Chapter 13 case on August 23, 2019. The applicable commitment period is sixty months. The case is currently in the second month and the Meeting of Creditors has been completed. The bar date for filing non-governmental claims is November 1, 2019. Scheduled unsecured claims total \$55,100.07. The Trustee estimates that under the proposed plan general unsecured creditors will receive approximately \$0.00.

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2                   **OBJECTION**

- 3                    Plan is not feasible:

4                   Debtors have not starting making plan payments. *See* attached Declaration. Before  
5 confirmation, a debtor must demonstrate that “the debtor will be able to make all  
6 payments under the plan.” 11 U.S.C. § 1325(a)(6). Debtors’ lack of plan payments  
7 demonstrates that Debtors’ lack the ability to make the required payments under the  
8 plan.

- 9                    Schedules or other documentation insufficient:

- 10                  (1) Debtor has not yet provided Trustee with copies of their bank statements  
11                  covering the date of filing pursuant to Fed. R. Bankr. P. 4002. Specifically, for  
12                  the checking and savings accounts held at Alaska Credit Union, Denali Credit  
13                  Union, and IBEW Credit Union. Confirmation should be denied until such time  
14                  as Debtor has complied with this requirement.
- 15                  (2) Trustee has requested, but not yet received, a copy of Mr. Hardie’s domestic  
16                  support order.
- 17                  (3) Trustee has requested, but not yet received, evidence of the cash surrender value  
18                  of Debtors’ whole life insurance policy.

19                  **WHEREFORE**, Trustee requests that the objection to confirmation be sustained and  
20 debtors be ordered to file a motion to confirm a plan resolving the issues raised herein within 14  
21 days of entry of the Order Sustaining Trustee’s Objection to Confirmation; and to set the  
22 hearing on the next available motion calendar after the 14 days expires. If the Motion to  
23 Confirm resolving the Trustee’s issues is not filed and set for hearing as outlined above, the  
24 Trustee requests he be allowed to enter an order dismissing the case, *ex parte*, without notice.

25                  **DATED** this 4th day of October, 2019.

26                  \_\_\_\_\_  
27                  /s/ Mathew S. LaCroix

28                  Mathew S. LaCroix, WSBA# 41847 for  
29 Michael G. Malaier, Chapter 13 Trustee

30                  Michael G. Malaier  
31 Chapter 13 Standing Trustee  
32 2122 Commerce Street  
33 Tacoma, WA 98402  
34 (253) 572-6600

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**CERTIFICATE OF MAILING**

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3 I certify under penalty of perjury under the laws of the United States I caused to be  
mailed via first class mail a true and correct copy of Trustee's Objection to Confirmation and  
Declaration to the following:

4

5           Orland Wayne Hardie, III  
6           Stacy Leigh Helmer-Hardie  
7           21515 – 82<sup>nd</sup> Ave. Ct. E.  
8           Spanaway, WA 98387

9 The following parties received notice via ECF:

10           Ellen Ann Brown  
11           U.S. Trustee

12 Executed at Tacoma, Washington this 7<sup>th</sup> day of October, 2019.

13           \_\_\_\_\_  
14           /s/ Tracy Maher  
15           Tracy Maher  
16           Motion Coordinator for  
17           Chapter 13 Trustee